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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,

Plaintiff,

v.

INTUITIVE SURGICAL, INC.,

Defendant.

Case No. 3:21-cv-03496-AMO

**DEFENDANT'S UNOPPOSED
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE SUPPLEMENTAL
BRIEF IN SUPPORT OF
DEFENDANT'S MOTION FOR
LIMITED SUPPLEMENTAL
DISCOVERY**

The Honorable Araceli Martínez-Olguín

MOTION AND NOTICE OF MOTION

Pursuant to Civil Local Rule 7-11 and 7-3(d), Defendant Intuitive Surgical, Inc. (“Intuitive”) hereby brings this unopposed Administrative Motion for Leave to file a supplemental brief of no more than three pages in support of its Motion for Limited Supplemental Discovery, Dkt. 244, in order to bring to the Court’s attention a recently-filed complaint that further shows why supplemental discovery is necessary. The proposed supplemental brief is attached hereto as Exhibit A; the complaint referenced is attached as Exhibit 1 to the proposed Declaration of William B. Michael. Counsel for Intuitive has met and conferred with counsel for Plaintiff Surgical Instrument Service Company, Inc. (“SIS”), and SIS has represented that it does not oppose this Motion for Leave.

On September 18, 2024—just two days ago, and more than two weeks after briefing had been completed on the Motion for Limited Supplemental Discovery—non-party Restore Robotics Repairs LLC filed a complaint in the Northern District of Florida that bears directly on the issues raised in the Motion for Limited Supplemental Discovery. As explained in the proposed supplemental brief, Restore’s Complaint directly contradicts SIS’s arguments opposing the limited supplemental discovery that Intuitive seeks on key points, including the ability of third parties to break the encryption on Intuitive’s X/Xi EndoWrists and the ability and willingness of third parties to seek FDA clearance for remanufactured EndoWrists. Because Restore filed its Complaint only two days ago, Intuitive could not have addressed the Complaint in the prior briefing on its Motion for Limited Supplemental Discovery. Accordingly, Intuitive respectfully requests that the Court grant this Administrative Motion for Leave, permit Intuitive to file the supplemental brief, and direct the Clerk of Court to enter Exhibit A hereto, as well as the proposed Declaration of William B. Michael and Exhibit 1 thereto, as filed on the docket in this case.

1 Dated: September 20, 2024

By: /s/ Kenneth A. Gallo
Kenneth A. Gallo

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CERTIFICATE OF SERVICE

I, Kenneth A. Gallo, hereby certify that on September 20, 2024, I caused a true and correct copy of the foregoing Administrative Motion for Leave to File Supplemental Brief in Support of Defendant's Motion for Limited Supplemental Discovery to be electronically filed via the Court's Electronic Case Filing System, which pursuant to the Court's order of September 29, 2008, constitutes service in this action on counsel of record for Surgical Instrument Service Company, Inc.

Dated: September 20, 2024

By: /s/ Kenneth A. Gallo
Kenneth A. Gallo

Attorney for Intuitive Surgical, Inc.